

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

PC&PNDT Act – Implementation of directions of Hon'ble Supreme Court of India, New Delhi in Writ Petition (Civil) No.349/2006, Dated 04/03/2013 (867505 & 867506) – Orders – Issued.

HEALTH MEDICAL AND FAMILY WELFARE (D1) DEPARTMENT

G.O.Ms.No.86.

Dated:26/06/2013.

Read the following:-

1. From the Hon'ble Supreme Court of India, New Delhi, Order Dt: 4/3/2013 in W P (C) No.349/2006.
2. Govt.D.O.Lr.No.12645/D1/2012-4, dt.22-3-2013.
3. From the Commissioner of Health and Family Welfare, A.P. Hyderabad, Letter Rc.No.0396/PC&PNDT/2011, Dt:15/4/2013.

ORDER:

In the reference 1st read above, the Hon'ble Supreme Court of India has observed that Indian Society's discrimination towards female child still exists due to various reasons which has its roots in the social behavior and prejudices against the female child and, due to the evils of the dowry system, still prevailing in the society, in spite of its prohibition under the Dowry Prohibition Act. The decline in the female child ratio all over the country leads to an irresistible conclusion that the practice of eliminating female foetus by the use of pre-natal diagnostic techniques is widely prevalent in this country. Complaints are many, where at least few of the medical professionals do perform Sex Selective Abortion having full knowledge that the sole reason for abortion is because it is a female foetus. The provisions of the Medical Termination of Pregnancy Act, 1971 are also being consciously violated and misused.

2. The Hon'ble Supreme Court of India has further observed that the Central Govt. vide GSR 80 (E), Dt:7/2/2002 issued a notification amending the Act and regulating usage of mobile machines capable of detecting the sex of foetus, including portable ultrasonic machines, except in cases to provide birth services to patients when used within its registered premises as part of the Mobile Medical Unit offering a bouquet or other medical and health services. The Central Govt. also vide GSR 418 (E), Dt:4/6/2012 has notified an amendment by inserting a new rule 3.3 (3) with an object to regulate illegal registrations of medical practitioners in genetic clinics and also amended Rule 5 (1) by increasing the application fee for registration of every genetic clinic, genetic counseling centre, genetic laboratory, ultrasound clinic or imaging centre and amended Rule 13 by providing that an advance notice by any centre for intimation of every change in place, intimation of employees and address. Many of the clinics are totally unaware of those amendments and are carrying on the same practices.

3. In such circumstances, the Hon'ble Supreme Court of India, New Delhi has given the following directions in the reference 1st read above:-

1. The Central Supervisory Board and the State and Union Territories Supervisory Boards constituted under Section 7 and 16A of Pre-conception and Pre-natal Diagnostic Techniques Act, would meet at least once in six months, so as to supervise and oversee how effective is the implementation of the Pre-conception and Pre-natal Diagnostic Techniques Act.
2. The State Advisory Committees and District Advisory Committees should gather information relating to the breach of provisions of the PC&PNDT Act and the Rules and take steps to seize records, seal machines and institute legal proceedings, if they notice violation of the provisions of the PC&PNDT Act.
3. The Committees mentioned above should report the details of the charges framed and the conviction of the persons who have committed the offence, to the State Medical Councils for proper action, including suspension of the registration of the unit and cancellation of licence to practice.

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4. The Authorities should ensure also that all Genetic Counseling Centres, Genetic Laboratories and Genetic Clinics, Infertility Clinics, Scan Centre etc., using Pre-conception and Pre-natal Diagnostic Techniques and procedures should maintain all records and all forms, required to be maintained under the Act and Rules and the duplicate copies of the same be sent to the concerned District Authorities, in accordance with Rule 9 (8) of the Rules.
5. States and District Advisory Boards should ensure that all manufactures and sellers of ultra-sonography machines do not sell any machine to any unregistered centre, as provided under rule 3-A and disclose, on a quarterly basis, to the concerned State / Union Territory and Central Government, a list of persons to whom the machines have been sold, in accordance with Rule 3-A (2) of the Act.
6. There will be a direction to all Genetic Counselling Centres, Genetic Laboratories, Clinics etc., to maintain forms A, E, H and other Statutory forms provided under the Rules and if these forms are not properly maintained, appropriate action should be taken by the authorities concerned.
7. Steps should also be taken by the State Government and the authorities under the Act for mapping of all registered and unregistered ultra-sonography clinics, in three months time.
8. Steps should be taken by the State Governments and the Union Territories to educate the people of the necessity of implementing the provisions of the Act by conducting workshops as well as awareness camps at the State and District Levels.
9. Special Cell be constituted by the State Governments and the Union Territories to monitor the progress of various cases pending in the Courts under the Act and take steps for their early disposal.
10. The authorities concerned should take steps to seize the machines which have been used illegally and contrary to the provisions of the Act and the Rules thereunder and the seized machines can also be confiscated under the provisions of the Code of Criminal Procedure, 1973 and be sold, in accordance with law.
11. The various Courts in this country should take steps to dispose of all pending cases under the Act, within a period of six months, communicate this order to the Registrars of various High Courts, who will take appropriate follow up action with due intimation to the concerned Courts.
12. 8 steps should be taken by the State Governments and the Union Territories to educate the people of the necessity of implementing the provisions of the Act by conducting workshops as well as awareness camps at the State and District Levels as follows:-
 - a) The State Governments and Union Territories some times hold workshops as well as awareness camps at the State and District Levels which have the characteristic of a routine performance, sans sincerity, bereft of seriousness and shorn of meaning. It is embedded on data-orientation. It cannot take the color of routine speech. It must engulf the concept of social vigilance with an analytical mind and radiate into the marrows of the society. If awareness campaigns are not appositely conducted, the needed guidance for the people would be without meaning and things shall fall apart and everyone would try to take shelter in cynical escapism.
 - b) The persons involved in such awareness campaigns are required to equip themselves with constitutional concepts, culture, philosophy, religion, scriptural commands and injunctions, the mandate of the law as engrafted under the Act and above all the development of the modern science.

- c) No awareness campaign can ever be completed unless there is a real focus on the prowess of women and the need for women empowerment.
 - d) The Authorities of the Government, the Non-Governmental Organizations and other volunteers are required to remember that there has to be awareness camps which are really effective and purpose to have real awareness.
 - e) The purpose of the enactment can only be actualized and its object fruitfully realized when the authorities under the Act carry out their functions with devotion dedication and commitment and further there is awakened awareness with regard to the role of women in a society.
 - f) Simultaneously the desirability of law to be followed with spiritual obeisance, regard being had to be purpose of the Act, has to be stressed upon. The seemly synchronization shall bring the required effect. The apart, documentary films can be shown to highlight the need, and in still the idea in the mind of the public at large, for when mind becomes strong, mountains to melt.
 - g) The people involved in the awareness campaigns should have boldness and courage. There should not be any iota of confusion or perplexity in their thought or action. They should treat it as a problem and think that a problem has to be understood in proper manner to afford a solution. They should not bear in mind that they are required to change the mind set of the people, the grammar of society and unacceptable beliefs inherent in the populace.
 - h) It should clearly spelt out that female foeticide is the worst type of dehumanization of the human race.
4. Government after careful examination of the matter hereby order that effective measures be taken to implement the directions of the Supreme Court of India passed in its order (867505 & 867506), dt.4-3-2013 in W.P. (C) No.349/2006 in the reference 1st read above.
5. The Commissioner of Health and Family Welfare shall take further steps to implement these directions in letter and spirit and to monitor these activities closely in orders to effectively curtail the misuse of diagnostic techniques.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**AJAY SAWHNEY
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Commissioner, Printing & Stationary, Chenchulguda, Hyderabad (He is requested to publish it in Official Gazettee of A.P. and furnish 100 copies to Govt. / CH&FW, Hyd.)
The Commissioner of Health and Family Welfare, A.P. Hyderabad
All the HODs under the control of HM&FW Dept.
All the District Collectors in the state.
All DM&HOs in the state.

Copy to:

The Special Officer (I/c), O/o Advocate-On-Record in the Supreme Court,
A.P. Bhavan-1, Ashoka Road, New Delhi-110001 (He is requested to appraise the position to the Supreme Court of India)
The Law (E) Department.
Sf/Sc.

// FORWARDED BY ORDER //

SECTION OFFICER